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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/314,782	05/19/1999	SHIMON MULLER	OUN-P3987-JT	5640

22200 7590 09/09/2003

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EXAMINER
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VANDERPUYE, KENNETH N

ART UNIT	PAPER NUMBER
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2661

DATE MAILED: 09/09/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/314,782	MULLER ET AL.
	Examiner Kenneth N Vanderpuye	Art Unit 2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on \_\_\_\_.

2a) This action is **FINAL**.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1,3-25,28-31,33-37,39-45 and 47-134 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 4-25,29-31,33-37,39,40 and 52-134 is/are allowed.

6) Claim(s) 1,3 and 51 is/are rejected.

7) Claim(s) 41-45, 47-50 is/are objected to.

8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____.
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.	6) <input type="checkbox"/> Other: _____

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## DETAILED ACTION

### *Claim Rejections - 35 U.S.C. § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1, 3, 51 are rejected under 35 U.S.C. 102(e) as being anticipated by Hui et al.(6,198,749).

With regards to claims 1, 51 Hui teaches a method for transmitting a communication from a first network entity to a second network entity, wherein the first network entity and the second network entity are coupled to a communication medium, comprising:

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receiving a communication from a process operating on a first network entity(Fig. 4@22), wherein the communication is directed to a second network entity(Fig. 4@68); distributing elements of said communication into multiple portions(col. 5 lines 46-49); each of said portion corresponding to one of a plurality of channels established to convey a communication between said first network entity and said second network entity(Fig. 4@28, 29) sending a first portion of said communication on a first channel(Fig. 4@28) established on a first communication medium coupled to said first network entity(Fig. 4@22 and said second network entity(Fig. 4@68); and sending a second portion of said communication on a second channel(Fig. 4@29) established on a second communication medium coupled to said first network entity and second network entity wherein said communication is transmitted to said second entity at a data rate in excess of one gigabit per second(col. 1 line 62, 1,560,000 bits per second)

With regards to claims 3 Hui teaches a method wherein said communication is an Ethernet frame and wherein each of said multiple portions of said communication comprises one or more bytes.(Fig. 4, Ethernet frames enter the inverse multiplexer and are split in two hence split into bytes).

***Allowable Subject Matter***

3. Claims 4-25, 28-31, 33-37, 39-40, 52-134 are allowed.
4. Claims 40-45, 47-50 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth Vanderpuye whose telephone number is (703) 308-7828. The examiner can normally be reached on M-F from 6:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doug Olms, can be reached on (703) -305-4703. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.



**KENNETH VANDERPUYE**  
**PRIMARY EXAMINER**

Kenneth Vanderpuye

September 8, 2003